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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,542	02/27/2004	Frederic Scheer	112843-63	7084
24573	7590	11/01/2006		
BELL, BOYD & LLOYD, LLC PO BOX 1135 CHICAGO, IL 60690-1135			EXAMINER CHEN, VIVIAN	
			ART UNIT	PAPER NUMBER

1773

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/788,542	Applicant(s) SCHEER ET AL.	
	Examiner Vivian Chen	Art Unit 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/14/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,11,12,14-16 and 18-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,11,12,14-16 and 18-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 7-10, 13, 17, 28-30 have been cancelled by Applicant in the Amendment filed 10/5/2005.

Withdrawal of Allowability

2. The indicated allowability of claims 11-12, 14-16, 18-20, 23-24, 25, 27 is withdrawn in view of further consideration.

With respect to the presence of peroxides and/or copolyesters with adipic acid and/or mono-esters, claim language such as "less than 5%", "up to 5%", "less than 2%", "less than between 0.1 to 1.8%" all encompass the value of 0%. Since the minimum amount of said components required in the claimed composition can be 0% (i.e., the specified components are deemed to be optional), prior art compositions containing 0% peroxide and/or copolyesters with adipic acid meet the compositional limitations as recited in the present claims.

New grounds of rejection follow.

Specification

3. The objection to the specification in the previous Office Action has been withdrawn in view of Applicant's amendments filed 8/14/2006.

Claim Rejections - 35 USC § 112

4. The rejections under 35 U.S.C. 112, first paragraph, in the previous Office Action has been withdrawn in view of Applicant's amendments filed 8/14/2006.

5. Claims 5, 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 5, 15, the phrase "less than between 0.1 to 1.8% of an organic peroxide" is unclear and confusing because it is unclear whether 0.1 is intended to be a lower limit value or one of two upper limit values.

Claim Rejections - 35 USC § 103

6. Claims 1-6, 11-12, 14-16, 18-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over CHEN ET AL (US 5,756,651),
in view of GRUBER ET AL (US 5,594,095).

CHEN '651 discloses polylactide-based compositions comprising polylactide, 3-40 wt % polycaprolactone, 5-20 wt% plasticizer (e.g., monocarboxylic esters such as adipate esters), and 0.5-10 wt% antiblocking agent (e.g., talc). The compositions are melt processible at typical temperatures of 180 C. (line 42-53, col. 3; line 60, col. 4 to line 5, col. 5; line 37, col. 5 to line 20, col. 6; line 12-20, col. 7; line 60-63, col. 8; line 44-50, col. 9) However, the reference fails to explicitly disclose the use of polylactides in multilayer structures.

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GRUBER ET AL '095 discloses that it is well known in the art to use biodegradable polylactide resins and blends as a layer in a laminate (e.g., as a coating for paper) and/or as foamed articles. (line 24-31, col. 5; line 15-24, col. 25; line 6-33, col. 28; line 59, col. 28 to line 34, col. 29; line 10-25, col. 31; Example 11, 13)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the biodegradable polylactide compositions disclosed in CHEN '651 in conventional biodegradable film applications such as paper coatings and/or foamed articles as disclosed in GRUBER ET AL '095 suitable for use in the production of commonly known disposable food service articles (e.g, plates, cups, etc) (claims 12, 22, 24, 27). With respect to the presence of peroxides and/or copolyesters with adipic acid and/or mono-esters, claim language such as "less than 5%", "up to 5%", "less than 2%", "less than between 0.1 to 1.8%" all encompass the value of 0%. Since the minimum amount of said components required in the claimed composition can be 0% (i.e., the specified components are deemed to be optional), prior art compositions containing 0% peroxide and/or copolyesters with adipic acid meet the compositional limitations as recited in the present claims.

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney, can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 28, 2006



Vivian Chen
Primary Examiner
Art Unit 1773